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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Rodney L. Tietz

Serial No.: 10/057,318

Filed: January 25, 2002

For: PLANTS AND SEEDS OF CORN  
VARIETY I390185

Group Art Unit: 1632

Examiner: Mehta, A.

Atty. Dkt. No.: DEKA:287US

CERTIFICATE OF MAILING 37 C.F.R. 1.8	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:	
September 30, 2003	Date
_____ Robert E. Hanson.	

**AMENDMENT AND RESPONSE TO OFFICE ACTION DATED JUNE 30, 2003**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper is submitted in response to the second Office Action dated June 30, 2003, for which the three-month date for response is September 30, 2003. No fees are believed to be due in connection with the instant paper, however, should such fees be due consider this paragraph a request and authorization to withdraw the appropriate fee under 37 C.F.R. §§ 1.16 to 1.21 from Fulbright & Jaworski, L.L.P. Account No. 50-1212/DEKA:287US.

## I. AMENDMENT

Please make the following amendments:

### In the Specification:

Please replace the paragraph beginning at page 5, line 15, with the following:

*A1*  
-- The invention also concerns seed of the inbred corn variety I390185. A sample of this seed has been deposited under ATCC Accession No. PTA-4493. The inbred corn seed of the invention may be provided as an essentially homogeneous population of inbred corn seed of the variety designated I390185. Essentially homogeneous populations of inbred seed are those that consist essentially of the particular inbred seed, and are generally free from substantial numbers of other seed, so that the inbred seed forms between about 90% and about 100% of the total seed, and preferably, between about 95% and about 100% of the total seed. Most preferably, an essentially homogeneous population of inbred corn seed will contain between about 98.5%, 99%, 99.5% and about 99.9% of inbred seed, as measured by seed grow outs. This corresponds to current commercial practice among the leading companies in the seed industry.--

*A2*  
Please replace the paragraph beginning at page 10, line 19, with the following: ]

-- In still yet another aspect, the present invention provides a method of producing an inbred corn plant derived from the corn variety I390185, the method comprising the steps of: (a) preparing a progeny plant derived from corn variety I390185, wherein said preparing comprises crossing a plant of the corn variety I390185 with a second corn plant, and wherein a sample of the seed of corn variety I390185 has been deposited under ATCC Accession No. PTA-4493; (b) crossing the progeny plant with itself or a second plant to produce a seed of a progeny plant of a subsequent generation; (c) growing a progeny plant of a subsequent generation from said seed of a progeny plant of a subsequent generation and crossing the progeny plant of a subsequent generation with itself or a second plant; and (d) repeating steps (c) and (d) for an addition 3-10 generations to produce an inbred corn plant derived from the corn variety I390185. In the

*A<sub>1</sub>*  
*C<sub>1</sub>*

method, it may be desirable to select particular plants resulting from step (c) for continued crossing according to steps (b) and (c). By selecting plants having one or more desirable traits, an inbred corn plant derived from the corn variety I390185 is obtained which possesses some of the desirable traits of corn variety I390185 as well potentially other selected traits.--

*A<sub>2</sub>*

Please replace the paragraph beginning at page 22, line 17, with the following: ]

-- I390185: The corn plant variety from which seeds having ATCC Accession No. PTA-4493 were obtained, as well as plants grown from those seeds.--

*A<sub>3</sub>*

Please replace the paragraph beginning at page 29, line 8, with the following: ]

-- A representative deposit of 2500 seeds of the inbred corn variety designated I390185 has been made with the American Type Culture Collection (ATCC), 10801 University Blvd., Manassas, VA on June 25, 2002. Those deposited seeds have been assigned ATCC Accession No. PTA-4493. The deposit was made in accordance with the terms and provisions of the Budapest Treaty relating to deposit of microorganisms and was made for a term of at least thirty (30) years and at least five (05) years after the most recent request for the furnishing of a sample of the deposit is received by the depository, or for the effective term of the patent, whichever is longer, and will be replaced if it becomes non-viable during that period.--

*A<sub>4</sub>*

**In the Claims:**

Please amend claims 1-2, 5, 14-15, 17, 20-22 and 31 as follows:

*A<sub>5</sub>*

1. (Amended) A seed of the corn variety I390185, wherein a sample of the seed of the corn variety I390185 was deposited under ATCC Accession No. PTA-4493.
2. (Amended) A population of seed of the corn variety I390185, wherein a sample of the seed of the corn variety I390185 was deposited under ATCC Accession No. PTA-4493.